

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARRON THOMAS SIMMONS,

Plaintiff,

v.

SHASTA COUNTY DISTRICT
ATTORNEY, et al.,

Defendants.

No. 2:21-cv-0242 KJM AC P

ORDER

Plaintiff has requested the appointment of counsel. ECF No. 11. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

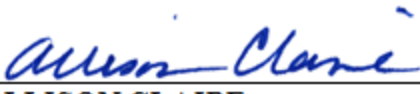
“When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on the merits as well as the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.’” Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish

1 exceptional circumstances that would warrant a request for voluntary assistance of counsel.

2 In light of the pending recommendation that this action be dismissed without leave to
3 amend for failure to state a claim, ECF No. 6, it does not appear that plaintiff has any likelihood
4 of success on the merits and appointment of counsel is therefore not warranted.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of
6 counsel, ECF No. 11, is DENIED.

7 DATED: March 24, 2021

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9 ALLISON CLAIRE
10 UNITED STATES MAGISTRATE JUDGE
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